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C/025/005 Incoming  
cc: Steve A.  
Daron  
Joe  
#4373  
K

August 13, 2013

**HAND DELIVERED**

Ms. Dana Dean  
Associate Director  
Utah Division of Oil, Gas and Mining  
1594 West North Temple  
Salt Lake City, Utah 84116

**RE: *Vacation of Fact of Violation, NOV No. 10123 ("NOV"); Inaccuracies in 8/1/13 Modification; Alton Coal Development, LLC, Coal Hollow Mine Permit No. C/025/0005***

Dear Associate Director Dean:

On behalf of Alton Coal Development, LLC ("ACD"), and based on discussion with you and Daron Haddock, we would like to clarify the confusion caused by Mr. Helfrich's modification of the NOV dated August 1, 2013 ("Modification"). First, we understand that the Division does intend to vacate the NOV based on the agreement reached at the July 22, 2013 settlement conference. The Modification extended the abatement period to August 18, 2013, to accommodate this settlement conference and no additional informal conference has been scheduled.

Second, contrary to the Modification, the Division has not increased the 322 acres of mitigation agreed to at the settlement conference on July 22, 2013 and is not requiring ACD to increase this acreage to 357.3 acres per the Modification.

Finally, we understand that the Division will accept ACD's mitigation project proposed on 355 acres of BLM land adjacent to the Coal Hollow Mine subject to clarification regarding the schedule and scope of mitigation. As set forth in our letter dated July 31, 2013, BLM has approved the mitigation project. Treatment on BLM lands will commence upon final cultural clearance and will be completed by December 6, 2013. During that time, 355 acres will be treated to remove pinyon/juniper using lop and scatter and mastication techniques. ACD will engage a contractor to undertake these activities. The purpose of these activities is to remove trees to help reduce raptor predation of the sage grouse population.

Also, separate from the abatement of the NOV, ACD proposes to revise the Sage Grouse Habitat Protection Plan (MRP, Appendix 3-5) to mitigate acreage on a 4 to 1 ratio. Since ACD's settlement meeting with DOGM, the Company has recalculated total disturbance as 255.2 acres. See attached Mining Disturbance Map dated August 8, 2013. Applying the 4:1 mitigation ratio, the total mitigation acreage is 1020.8 acres. This total is contrary to the 1,200 acres incorrectly proposed in the NOV Modification.

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The 255.2 acres includes construction of a five acre haul road undertaken by ACD to connect the mine disturbance in the south with that in the north. ACD is currently mitigating archaeological site 42KA2041 in the center of that haul road which is approximately 0.5 acres. Once treatment is completed and ACD is given clearance to disturb that site, the Company will have a total of 255.2 acres of disturbance for 2013.

At the 4:1 mitigation ratio, 1020.8 acres of total mitigated acreage is required through 2013. ACD has exceeded this total by 52 acres of mitigation as follows:

500	Acres of the corridor credited by DOGM
72	Acres of sage-grouse conservation area
146	Acres of pinyon/juniper/rabbitbrush removed in 2012
355	Acres of pinyon/juniper to be removed on BLM lands in 2013
1073	Total acres of mitigation through 2013

Therefore, as of 2013, ACD is 52 acres ahead of schedule regarding its current mitigation requirements and is very near to completing all required mitigation. Based on the 4:1 mitigation ratio, the Company will amend the MRP to commit to completing mitigation of next year's anticipated disturbance by December 31, 2014.

With this clarification, ACD requests that the Division vacate the NOV.

Very truly yours,



Denise A. Dragoo

DD:jmc  
Enclosure

cc: Daron Haddock (via e-mail)  
Steve Alder, Esq. (via e-mail)  
Larry Johnson (via e-mail)  
Kirk Nicholes (via e-mail)  
Dr. Steve Petersen (via e-mail)